



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/173184

PRELIMINARY RECITALS

Pursuant to a petition filed March 24, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Jefferson County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on April 26, 2016, at Jefferson, Wisconsin.

The issue for determination is whether the agency erred in its termination of FoodShare.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED] (by Atty. [REDACTED])
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Jefferson County Department of Human Services
Workforce Development Center
874 Collins Rd.
Jefferson, WI 53549

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Jefferson County.
2. Petitioner was the subject of a guardianship with corporate guardian Opportunities, Inc. Effective December 9, 2015, the guardianship for the purposes of this matter transferred from

Opportunities, Inc. to [REDACTED] [REDACTED]. Neither Ms. [REDACTED] nor Opportunities, Inc. informed the agency of the change.

3. Petitioner was an ongoing recipient of benefits under the FS program. Petitioner was notified that he was required to complete a periodic review of his FS case by January 31, 2016.
4. The agency mailed the notice of this review along with a blank six-month report from (SMRF) to the entity it believed was the petitioner's corporate guardian, Opportunities, Inc., on December 21, 2015.
5. A duplicate SMRF was sent on January 12, 2016. This document was sent to Opportunities, Inc.
6. The worker noticed the pending closure of FS as well as at least one address change. The worker contacted Opportunities Inc. The worker found out that the guardian was a new guardian.
7. On January 19, 2016, the worker spoke with the new guardian, Ms. [REDACTED]. The worker explained that the SMRF needed to be filed. It was not filed by January 31, 2016.
8. On January 31, 2016, the FS case closed.
9. Petitioner, by his guardian, filed a new application on February 19, 2016.
10. FS was opened as of February 19, 2016.

DISCUSSION

Petitioner's representative explained that the transition of guardians was not very smooth. The new guardian was unaware of the requirement of the review until the call from the agency to the new guardian.

Petitioner does not dispute that the SMRF was not filed by the review deadline. Petitioner also does not dispute that the new application following the case closure was filed on February 19, 2016. I note that per FoodShare Wisconsin handbook rules, the new case was opened as of the application filing date of February 19, 2016. *See FSWH § 7.1.1.1.*

The argument by petitioner is one based in equity, or fairness. As an administrative law judge, I have no powers of equity as does a circuit court judge. I must follow the law and rules and policy as set forth by an administrative agency. The rule in this case is clear and is reasonable. Because the case had closed and necessitated a new application, the appropriate date to begin benefits is the date of the new application. It is unfortunate that the new guardian was unable to file the SMRF when she was notified of the requirement by the agency on January 19. If the SMRF had been filed before case closure, there would have been no lapse.

CONCLUSIONS OF LAW

1. The agency did not err in terminating the FS case.
2. The agency did not err in not making benefits retroactive to the closure date or to February 1, 2016 as the application date is the correct date to begin FS benefits for a new application.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

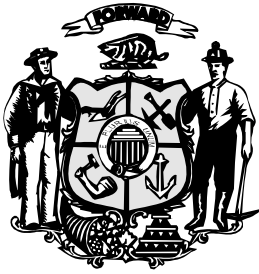
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 16th day of May, 2016

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 16, 2016.

Jefferson County Department of Human Services
Division of Health Care Access and Accountability